

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 556 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CHATURBHAI VIRAMBHAI VAGHRI & ORS.

Versus

BHAGWATACHARYA NARAYANCHARYA TRUST & ANR.

Appearance:

MR JIVANLAL M PATEL for Petitioners
MR NS DESAI for Respondent No. 1
None present for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE
Date of decision: 09/07/96

ORAL JUDGMENT

The petitioners challenged by this Special Civil Application, the part of the order of the Gujarat Revenue

Tribunal dated 21st December 1982, made in Revision Application No.TEN.B.A.1111/80. The order of the Revenue Tribunal has been made in the Revision Application filed by respondent No.1. One of the contentions raised by the counsel for the petitioners is that the respondent No.1 has no locus-standi to file Revision Application as well as original application before the appropriate authority.

2. Briefly stated facts of this case are as under:

The petitioners No.1 and 2 in this Special Civil Application have been declared to be deemed purchasers under the provisions of the Bombay Tenancy & Agricultural Lands Act, 1948 (hereinafter referred to as the said Act 1958) . The respondent No.1 has not challenged the declaration of the petitioners No.1 and 2 to be deemed purchasers of the agricultural land holdings in the present case.

3. When the petitioners No.1 and 2 have been declared to be deemed purchasers, the respondent No.1 is divested of any right, title or interest whatsoever in the agricultural holdings. Relying on the decision of this Court in the case of Shashikant v.State of Gujarat and Ors., reported in 11 GLR 122, the counsel for the petitioners contended that the landlord would have no concern with the agricultural holdings after the tenant becomes a deemed purchaser. In view of these facts, counsel for the petitioners contended that the application filed by respondent No.1 u/s.43 of the said Act 1958, before the Deputy Collector by the respondent No.2 was not maintainable. It is a case where the petitioners No.1 and 2 have been declared to be purchasers of the land and as such, the provisions of Section 43 of the said Act 1948, were not applicable.

4. On the other hand, the learned counsel for the respondent No.1 contended that this writ petition is not maintainable because the Tribunal has decided nothing against the petitioners. The Tribunal has returned the Revision Application to the respondent No.1 for filing of the same before the appropriate authority and this order has been passed by the Tribunal on the ground that suo-motu, the Collector has taken Entry No.2200 dated 5.1.79 in revision and against that order, the Tribunal has no jurisdiction to hear the Revision Application.

5. I have given my thoughtful consideration to the submission made by learned counsel for the parties. When the application of the respondent No.1 was u/s.43 of the said Act 1948, and the petitioners No.1 and 2 were the

deemed purchasers of the land by implication of law, the respondent No.1 has no locus-standi to file that application. He was divested of all rights, title and interest in the said land holding and as such, he has no right whatsoever to raise any objection subsequently. The respondent No.1 has not challenged the status of the petitioners No.1 and 2 of the deemed purchasers by implication of law as contained in the said Act 1948. Not only this, the sale of land in question to petitioners No.3, 4 and 5 by the petitioners No.1 and 2 has also not been challenged at any point of time by the respondent No.1. Grievance has been made that sale could not have been made without prior permission u/s.43 of the said Act 1948, of the Collector and for this, I am of opinion that the respondent No.1 has no locus-standi whatsoever. The Deputy Collector, after hearing the arguments came to the conclusion that the entry made pursuant to the Resolution of the Government dated 22nd October 1965 was valid and the application filed by the respondent No.1 was ordered to be filed. Even if it is taken to be a case where the Deputy Collector has suo-motu taken the entry into revision, but the same has been held to be valid and the learned counsel for the respondent, leaving apart the question of locus-standi to file an application or make any grievance against the authority, failed to make out a case how the decision of the Deputy Collector is invalid. I have gone through the judgment of the Tribunal, and the entry No.2200 dated 5.1.79 has been made on the basis of Resolution of the Government in Revenue Department dated 22nd October 1965. When the respondent No.1 has no locus-standi as having been divested of rights, title and interest in the said agricultural holdings to approach to the Deputy Collector as well as the Tribunal, and when the findings recorded by the Deputy Collector and the aforesaid entry have been held to valid, the Tribunal erred in returning the revision. The revision petition deserves to be dismissed.

6. In the result, this Special Civil Application is allowed and the order of the Gujarat Revenue Tribunal whereunder the Revision Application was ordered to be returned to the respondent No.1 for presentation before the appropriate forum, is set aside and the application filed before the Deputy Collector u/s.43 of the said Act 1948 is dismissed in toto and the entry No.2200 is held to be valid. Rule is made absolute in aforesaid terms with no order as to costs.

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(sunil)